1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 SOUTHERN DISTRICT OF CALIFORNIA 10 11 MICHAEL J. WILLIAMS, Civil No. 12-1484 AJB (WMc) 12 Petitioner. SUMMARY DISMISSAL OF 13 v. SUCCESSIVE PETITION PURSUANT TO 28 U.S.C. § 2244(b)(3)(A) DOMINGO URIBE, Jr., Warden, 14 GATEKEEPER PROVISION Respondent. 15 Petitioner, Michael J. Williams, a state prisoner proceeding pro se, has filed a Petition for 16 17 Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 together with a request to proceed in forma 18 pauperis. The Court does not rule on Petitioner's request to proceed in forma pauperis because 19 this case is summarily dismissed pursuant to 28 U.S.C. § 2244(b)(3)(A) as indicated below. 20 PETITION BARRED BY GATEKEEPER PROVISION 21 The instant Petition is not the first Petition for a Writ of Habeas Corpus Petitioner has 22 submitted to this Court challenging his July 6, 2001 conviction in San Diego Superior Court case 23 No. SCE 211610. On September 2, 2003, Petitioner filed in this Court a Petition for Writ of 24 Habeas Corpus in case No. 03cv1756. In that petition, Petitioner challenged his conviction in 25 San Diego Superior Court case No. SCE 211610 as well. On April 7, 2004, this Court denied 26 the petition because the first claim was procedurally barred and unexhausted, the second claim 27 was unexhausted and not cognizable on federal habeas review and denied the third claim on the

merits. (See Order filed April 7, 2004, in case No. 03cv1756 J (POR) [Doc. No. 17].)

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Petitioner is now seeking to challenge the same conviction he challenged in his prior federal habeas petition. Unless a petitioner shows he or she has obtained an Order from the appropriate court of appeals authorizing the district court to consider a successive petition, the petition may not be filed in the district court. *See* 28 U.S.C. § 2244(b)(3)(A). Here, there is no indication the Ninth Circuit Court of Appeals has granted Petitioner leave to file a successive petition.

CONCLUSION

Because there is no indication Petitioner has obtained permission from the Ninth Circuit Court of Appeals to file a successive petition, this Court cannot consider his Petition. Accordingly, the Court **DISMISSES** this action without prejudice to Petitioner filing a petition in this court if he obtains the necessary order from the Ninth Circuit Court of Appeals. *The Clerk of Court is directed to mail Petitioner a blank Application for Leave to File a Second or Successive Petition or Motion Under 28 U.S.C. § 2254 or § 2255 together with a copy of this Order*.

IT IS SO ORDERED.

DATED: June 21, 2012

Hon. Anthony J. Battaglia U.S. District Judge

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